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**Board of Vocational Nursing
and Psychiatric Technicians**

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**BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2006-397

RAE ANN ROBERTSON
3699 Barnard Drive #633
Oceanside, CA 92056

A C C U S A T I O N

Vocational Nurse License No. VN 195559

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this
Accusation solely in her official capacity as the Executive Officer of the Board of Vocational
Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about June 14, 2001, the Board of Vocational Nursing and
Psychiatric Technicians issued Vocational Nurse License Number VN 195559 to Rae Ann
Robertson (Respondent). The Vocational Nurse License will expire on August 31, 2008 unless
otherwise renewed.

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1 (b) Use any controlled substance as defined in Division 10 of the
2 Health and Safety Code, or any dangerous drug as defined in Section 4022, or
3 alcoholic beverages, to an extent or in a manner dangerous or injurious to himself
4 or herself, any other person, or the public, or to the extent that the use impairs his
5 or her ability to conduct with safety to the public the practice authorized by his or
6 her license.

7 (c) Be convicted of a criminal offense involving possession of any
8 narcotic or dangerous drug, or the prescription, consumption, or
9 self-administration of any of the substances described in subdivisions (a) and (b)
10 of this section, in which event the record of the conviction is conclusive evidence
11 thereof.

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13 8. Section 490 of the Code provides, in pertinent part, that the Board may
14 suspend or revoke a license when it finds that the licensee has been convicted of a crime
15 substantially related to the qualifications, functions or duties of a licensed vocational nurse.

16 9. Section 492 of the Code states:

17 Notwithstanding any other provision of law, successful completion of any
18 diversion program under the Penal Code, or successful completion of an alcohol
19 and drug problem assessment program under Article 5 (commencing with section
20 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit
21 any agency established under Division 2 ([Healing Arts] commencing with
22 Section 500) of this code, or any initiative act referred to in that division, from
23 taking disciplinary action against a licensee or from denying a license for
24 professional misconduct, notwithstanding that evidence of that misconduct may
25 be recorded in a record pertaining to an arrest.

26 This section shall not be construed to apply to any drug diversion program
27 operated by any agency established under Division 2 (commencing with Section
28 500) of this code, or any initiative act referred to in that division.

29 10. Section 125.3 of the Code provides, in pertinent part, that the Board may
30 request the administrative law judge to direct a licensee found to have committed a violation or
31 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
32 and enforcement of the case.

33 11. California Code of Regulations, title 16, section 2521, states:

34 For the purposes of denial, suspension, or revocation of a license pursuant
35 to Division 1.5 (commencing with Section 475) of the Business and Professions
36 Code, a crime or act shall be considered to be substantially related to the
37 qualifications, functions or duties of a licensed vocational nurse if to a substantial
38 degree it evidences present or potential unfitness of a licensed vocational nurse to
39 perform the functions authorized by his license in a manner consistent with the

1 public health, safety, or welfare. Such crimes or acts shall include but not be
2 limited to those involving the following:

3 (a) Procuring a license by fraud, misrepresentation, or mistake.

4 (b) A conviction of practicing medicine without a license in violation of
Chapter 5 of Division 2 of the Business and Professions Code.

5 (c) Violating or attempting to violate, directly or indirectly, or assisting in
6 or abetting the violation of, or conspiring to violate any provision or term of
Chapter 6.5, Division 2 of the Business and Professions Code.

7 (d) Aiding or assisting, or agreeing to aid or assist any person or persons,
8 whether a licensed physician or not, in the performance of or arranging for a
violation of any of the provisions of Article 13, Chapter 5, Division 2 of the
9 Business and Professions Code.

10 (e) Conviction of a crime involving fiscal dishonesty.

11 (f) Any crime or act involving the sale, gift, administration, or furnishing
12 of "narcotics or dangerous drugs or dangerous devices" as defined in Section
4022 of the Business and Professions Code.

13 12. California Code of Regulations, Title 16, section 2522.5 states:

14 (a) When considering the suspension or revocation of a license on the
15 ground that a licensed vocational nurse has been convicted of a crime, the Board,
in evaluating the rehabilitation of such person and his eligibility for a license will
16 consider the following criteria:

17 (1) Nature and severity of the act(s) or offense(s).

18 (2) Total criminal record.

19 (3) The time that has elapsed since commission of the act(s) or
offense(s).

20 (4) Whether the licensee has complied with any terms
21 of parole, probation, restitution, or any other
sanctions lawfully imposed against the licensee.

22 (5) If applicable, evidence of expungement proceedings
23 pursuant to Section 1203.4 of the Penal Code.

24 (6) Evidence, if any, of rehabilitation submitted by the
licensee.

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26 13. Section 4022 of the Code states:

27 "Dangerous drug" or "dangerous device" means any drug or device
28 unsafe for self-use in humans or animals, and includes the following:

1 (a) Any drug that bears the legend: "Caution: federal law prohibits
2 dispensing without prescription," "Rx only," or words of similar import.

3 (b) Any device that bears the statement: "Caution: federal law
4 restricts this device to sale by or on the order of a _____," "Rx only," or
5 words of similar import, the blank to be filled in with the designation of the
6 practitioner licensed to use or order use of the device.

7 (c) Any other drug or device that by federal or state law can be
8 lawfully dispensed only on prescription or furnished pursuant to Section 4006.

9 DRUG

10 14. Methamphetamine is a Schedule II controlled substance as designated by
11 Health and Safety Code section 11055, subdivision (d)(2), and is a dangerous drug pursuant to
12 Business and Professions Code section 4022.

13 FIRST CAUSE FOR DISCIPLINE

14 **(April 25, 2007 Criminal Conviction for Possession of Methamphetamine 15 for Sale While Armed With a Loaded Firearm on August 2, 2006)**

16 15. Respondent has subjected her license to disciplinary action under sections
17 490 and 2878, subdivision (f) of the Code in that Respondent was convicted of a crime that is
18 substantially related to the qualifications, functions, and duties of a licensed vocational nurse.
19 The circumstances are as follows:

20 a. On or about April 25, 2007, in a criminal proceeding entitled
21 *People v. Rae Ann Robertson*, Riverside County Superior Court (Southwest Justice Center), case
22 number SWF017635, Respondent was convicted on her plea of guilty of violating Health and
23 Safety Code section 11378, possession of controlled substance for sale (methamphetamine), a
24 felony; and possession of methamphetamine while armed with a loaded, operable firearm in
25 violation of Health and Safety Code section 11370.1, a felony.

26 b. As a result of the conviction, on or about April 25, 2007,
27 Respondent was sentenced to 365 days in the county jail (with credit for 349 days), three years
28 formal probation, and payment of fees and fines. Respondent was further ordered to complete a
rehabilitation program, to submit to chemical tests and searches, and not use or possess illegal
drugs, firearms, or deadly weapons.

1 c. The facts that led to the conviction were that on or about the early
2 morning of August 2, 2006, two Riverside County Sheriff's deputies were patrolling the parking
3 lot of a Perris hotel known for drug trafficking and prostitution. The deputies observed
4 Respondent walking towards a Toyota Camry. Leaning on a passenger door of the Toyota was a
5 male ("Tim"), Respondent's friend. As the deputies drove towards the vehicle, Tim was
6 observed exiting the vehicle carrying multiple items and walking quickly towards the back of the
7 hotel. As one deputy followed Tim on foot, the other deputy questioned Respondent in the
8 vehicle. Respondent told the deputy she was not staying at the hotel and did not know why she
9 and Tim were there. The deputy noted that Respondent's eyes were bloodshot and her pupils
10 were dilated. Respondent was detained in the patrol car for suspicion of being under the
11 influence of a controlled substance while the deputy assisted in the apprehension of Tim near the
12 front door of the hotel. Tim also exhibited the objective symptoms of being under the influence
13 of a controlled substance and was detained. A back-up deputy arrived and commenced searching
14 the Toyota Camry. A black 18" ASP expandable baton was in plain view on the front passenger
15 seat. A black leather bag sitting under the hood next to the engine contained a Glock 19 9mm
16 handgun with an altered serial number, 2 3/4 ounces of methamphetamine, numerous plastic
17 baggies, and a digital scale. There was a large glass "Purex" style bong/pipe in the trunk. A
18 Glock magazine with 9mm rounds were also recovered. Based upon the quantity of
19 methamphetamine, the associated zip locks bags commonly used for packaging street drugs, the
20 digital scale, U.S. currency, and a cell phone (that rang constantly during the arrest), it was
21 determined that Respondent and her companion possessed the methamphetamine for sale.
22 According to the deputy's report, after arriving at the Perris Police Station, Respondent
23 displayed numerous symptoms of recent CNS controlled substance usage including an elevated
24 heart rate, slow-reacting pupils, bad breath, and a white pasty coating on her tongue.

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1 31, 2006. Respondent and her boyfriend were alone in the house. Among the various items
2 recovered were the victim's store card, a spoon containing methamphetamine residue, 1.5 grams
3 of methamphetamine and hypodermic needles, three boxes of horse medication, a counterfeit
4 \$100 bill, and various stolen credit cards, identification cards, and mail. Respondent admitted to
5 the investigator that she had written all the forged checks. She claimed she found the check
6 book, credit cards, and identification in a dumpster. She further told the investigator that the
7 methamphetamine and needles belonged to her and that her drug problem had gotten worse over
8 the previous 1 ½ years. She went from smoking to injecting methamphetamine. The Riverside
9 Auto Theft Interdiction Detail (RAID) also performed a warrant search of the premises. A
10 motorcycle reported stolen on August 14, 2006, was parked in the kitchen and covered by large
11 cardboard boxes. Respondent told the detective that she didn't know the motorcycle was in her
12 house. Also recovered was a motorcycle frame that had a large hole where the serial number
13 would have been located. Respondent claimed to have found the frame in a dumpster.

14 15 **THIRD CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct - Criminal Conviction for Possession of Drugs for Sale)**

17 17. Respondent has subjected her license to disciplinary action under sections
18 2878, subdivision (a) and 2878.5, subdivision (c) of the Code in that Respondent was convicted
19 of a crime involving the possession of a dangerous drug (methamphetamine), as detailed in
20 paragraph 15, above.

21 22 **DISCIPLINARY CONSIDERATIONS**

23 18. To determine the degree of discipline, if any, to be imposed on
24 Respondent, Complainant alleges that on or about August 27, 2005, Respondent entered the
25 lobby of the Southwest Detention Center in Riverside County to deposit money on an inmate's
26 account. An on-duty Riverside County Sheriff Deputy asked Respondent for her identification.
27 Respondent told the deputy that her driver's license had expired. The deputy confirmed through
28 a records check that Respondent's license was expired. Subsequently, the deputy conducted a

1 security check in the front lobby parking lot. He observed Respondent get behind the wheel of a
2 car. As the deputy approached her, Respondent started the car. The deputy told her to turn off
3 the car and asked her if she intended to drive without a license. Respondent answered "Yes."
4 While interviewing Respondent, the deputy observed that Respondent appeared to be under the
5 influence of a controlled substance. She had a poor complexion, dilated pupils, eyelid tremors,
6 and rapid, uncontrollable speech. Respondent told the deputy that she had taken a few hits of
7 methamphetamine earlier in the day. Based on Respondent's admissions, and her objective
8 symptoms of being under the influence, Respondent was arrested and booked into jail. After
9 reading Respondent her *Miranda* rights, she agreed to speak to the deputy. She told the deputy
10 that she had been using methamphetamine for about two weeks, and that she had met up with an
11 unknown man at a liquor store where they smoked methamphetamine out of a clear glass pipe at
12 12:30 p.m. that day. Respondent told the deputy that she had been clean for several years and
13 just recently went back to using because of a divorce. Respondent was released and given a
14 citation to appear on November 29, 2005.

15 Respondent failed to appear for her November 29, 2005, arraignment in the
16 matter of *People v. Rae Ann Robertson*, Riverside County Superior Court case number
17 SWM042909, and a warrant for her arrest was issued. Nine months later, on or about August 31,
18 2006, as a result of her arrest as detailed in paragraph 16(c), Respondent was arraigned on the
19 warrant and released. Respondent failed to appear for her November 16, 2006, hearing and
20 another arrest warrant was issued. At a misdemeanor in-custody arraignment on or about
21 November 28, 2006, Respondent pled not guilty and the matter was trailed with case number
22 SWF017875, as detailed in paragraph 16, above. After numerous continuances, on or about
23 April 25, 2007, the case was dismissed in the furtherance of justice following Respondent's
24 convictions in the cases detailed in paragraphs 15 and 16, above.

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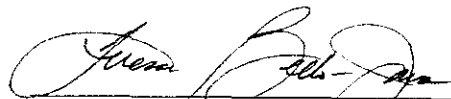
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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Vocational Nursing and Psychiatric
4 Technicians issue a decision:

- 5 1. Revoking or suspending Vocational Nurse License Number VN 195559,
6 issued to Rae Ann Robertson;
- 7 2. Ordering Rae Ann Robertson to pay the Board of Vocational Nursing and
8 Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,
9 pursuant to Business and Professions Code section 125.3;
- 10 3. Taking such other and further action as deemed necessary and proper.
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12 DATED: February 7, 2008

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14 TERESA BELLO-JONES, J.D., M.S.N., R.N.
15 Executive Officer
16 Board of Vocational Nursing and Psychiatric Technicians
17 Department of Consumer Affairs
18 State of California
19 Complainant

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